

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
ATLANTIC HERRING SECTION**

**The Westin Alexandria  
Alexandria, Virginia  
August 4, 2015**

**Approved November 2015**

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- 1. Move that the PDT develop options to protect spawning fish by prohibiting landing of Atlantic herring caught within the specific spawning areas defined as eastern Maine and western Maine/MA/NH.**  
Motion made by Dr. Pierce and seconded by Mr. Grout. Motion carries (7 in favor) on page 10
- 2. Move to include in Draft Amendment 3 the timing options regarding spawning stage, defaults, and end of spawning closure. These issues are described in memo to the Board dated July 22, 2015.**  
Motion made by Dr. Pierce and seconded by Rep. Kumiega. Motion carries on page 14.

## ATTENDANCE

### Section Members

|  |  |
|--|--|
| Terry Stockwell, ME, proxy for P. Keliher (AA)     | Dave Simpson, CT (AA)                                      |
| Steve Train, ME (GA)                               | Dr. Lance Stewart, CT (GA)                                 |
| Rep. Walter Kumiega, ME (LA)                       | Rep. Craig Miner, CT (LA)                                  |
| Doug Grout, NH (AA)                                | Katherine Heinlein, NY, proxy for Sen. Boyle (LA)          |
| G. Ritchie White, NH (GA)                          | Emerson Hasbrouck, NY (GA)                                 |
| Dennis Abbott, NH, proxy for Sen. Watters (LA)     | Jim Gilmore, NY (AA)                                       |
| Jocelyn Cary, MA, proxy for Rep. S. Peake, MA (LA) | Adam Nowalsky, NJ, proxy for Asm. Sgt. R. Andrzejczak (LA) |
| David Pierce, MA (AA)                              | Tom Baum, NJ, proxy for D. Chanda (AA)                     |
| Bill Adler, MA (GA)                                | Tom Fote, NJ (GA)  |
| Eric Reid, RI, proxy for Sen. Sosnowski (LA)       |  |
| David Borden, RI (GA)                              |  |
| Mark Gibson, RI, proxy for R. Ballou (AA)          |  |

**(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)**

### Ex-Officio Members

|  |   |
|--|---|
| Jeff Kaelin, Advisory Panel Chair      | Michael Eastman, Law Enforcement Representative |
| Renee Zobel, Technical Committee Chair |   |

### Staff

|             |             |
|-------------|-------------|
| Robert Beal | Jeff Kipp   |
| Toni Kerns  | Ashton Harp |

### Guests

Raymond Kane, CHOIR

The Atlantic Herring Section of the Atlantic States Marine Fisheries Commission convened in the Edison Ballroom of The Westin Alexandria, Alexandria, Virginia, August 4, 2015, and was called to order at 10:25 o'clock a.m. by Chairman Terry Stockwell.

### **CALL TO ORDER**

CHAIRMAN TERRY STOCKWELL: Good morning, everyone. We're going to convene the Atlantic Herring Section. I want to begin the meeting by welcoming Ashton Harp to the commission and the section. I'll call the meeting to order.

### **APPROVAL OF THE AGENDA**

CHAIRMAN TERRY STOCKWELL: The first order of business is approval of the agenda. Are there any issues or edits to the agenda?

### **APPROVAL OF THE PROCEEDINGS**

CHAIRMAN TERRY STOCKWELL: Seeing none; we will approve the proceedings from May of 2015. Are there any edits or changes to the minutes? Seeing none; are there any comments from the public on items that are not on the agenda? Seeing none; we're going to move right ahead into our major agenda item to develop further guidance for the PDT on Draft Amendment 3. I want to thank Renee and the technical committee for putting together a PowerPoint presentation for us and turn it over to Renee.

### **REVIEW OF DRAFT AMENDMENT 3**

MS. RENEE ZOBEL: As we were looking through the information from the meeting this winter and other information, it seemed like there is a little bit of confusion over what was presented. We wanted to kind of give a little bit of an overview, and then we're looking for some clarification as well. We thought at first it would be a little bit informative to over where

we've been for spawning closure history since the original FMP in 1993.

With the number of the items that have been in discussion as we've been developing this amendment, we took a look at the closures, the tolerances, the default dates. Basically the takeaway is that a lot has change over time with these spawning closures. In the original FMP we had four areas; we had a 25 percent tolerance; various default dates. We then went to a full 13-week closure for all areas, which ended up with a local depletion problem and we had to import fish from Canada as a result.

Then following that, we went to three areas because our default dates for Central Maine and Western Maine were the same and they were closing at the same time. A decision was made at that time to combine those areas. In Amendment 2 we did away with the tolerance and went to zero tolerance. Going back through those management actions that appeared to be primarily from a law enforcement perspective; that was something that came out of the Law Enforcement Committee, as well as the goal to prevent spawning fish from hitting the dock.

We've have had a sampled-based closure history since 2000 where we've taken 50-fish samples. Now we take a hundred fish samples and we have to have fewer than seven days that exceed the GSI values for the different size classes to trigger those closures. This is all just an overview, so don't get hung up too much on the details here.

Over time it appears that the goals and objectives of spawning closures have changed somewhat. In the original FMP the goal was to provide adequate protection for spawning herring and prevent damage to herring egg beds. In Addendum I, where they did away with some of the tolerance, it was specific measures which are designed to reduce the exploitation and destruction of herring spawning aggregations while providing a limited

opportunity to harvest herring during that time of the year.

That in particular was in response to a very long closure for all of the areas and the problem harvesting in the area at the time. Then in Amendment 2 we go back and again specify that we're looking for adequate protection for spawning herring in prevent damage to herring egg beds. As the technical committee looking at these, basically our question is what are the goals and objectives of the spawning closures?

Previously all of the management measures that I've stated so far were all based on expert opinion, literature and public input. As the technical committee we were tasked to look at spawning closure efficacy; and we did it from over ten years of data that we now have available to us. The question is – and it could be other goals as well – are the goals to prevent spawning fish from being taken, the goal to prevent fishing operations that will disrupt spawning activity or is it some combination of the two or something that hasn't been presented in any management actions thus far?

Having those goals and objectives clarified would help us as the technical committee know how to advise from a technical perspective these different management actions that we're looking at. Just some things about those, in Amendment 2 there are considerations where it was preventing spawning fish from being taken. There are concerns about the tolerance provision via public comment and law enforcement.

The public comment, some of which were quite strong, was that there shouldn't be catch of spawning herring. The 2,000 pound bycatch allowance was established at that time. Likewise, to prevent fishing operations that will disrupt spawning activity; there is a bit of anecdotal evidence that suggests fishing in an area where there is spawning behavior and the herring are not necessarily being caught had

some disruption to the biological processes of the fish.

Our first closure parameters were established in the early 1990's. They were based, like I said, primarily on expert opinion, literature and public comment. They had very little basis on data. We reviewed the data as tasked, looked at the efficacies of the spawning closure and were able to look over ten years' worth of GSI sampling data by the states of Maine and Massachusetts to examine the effectiveness of the current closures and recommend, where appropriate, options based on the data.

There are over 8,000 samples that were taken during that timeframe for us to be able to inform the methodology, which Micah has presented prior to me during an overview about our forecasting methodology. Just a quick review – I know this was a very technical moment in the last meeting so I'm going to review it on a very surface basis more conceptually.

Micah went into a lot of detail about this, some of which is probably a little bit confusing just due to the technical nature of the work. The technical committee took a look at the data and found that there was a wonderful relationship between the linear relationship with the GSIs and the length of fish over time as the maturity went on throughout the course of the season. What this does is through samples, due to this linear relationship, it allows us to forecast the date at which those fish will reach spawning potential. When they're fully mature, having those samples and being able to track them over time can give us a really great indication of when spawning is going to happen, which is essentially what is up there now.

This just goes into different years and projected spawning dates for the area. As you can see, there is a lot of variability between each year, which is another huge advantage of going with the methodology like this. We've seen that there is a significant amount of inter-annual

variability; so spawning could happen very early one year and very late the next year. There could be a big difference year to year in those timings.

You see the numbers up there. There are GSI thresholds that Micah presented that basically come down to risk tolerance. Looking at the different numbers, the fish were all standardized to length of 30. Why that happened is because the larger the fish is the earlier it spawns; so we wanted to be as precautionary as possible.

In order to do this type of forecasting, all the fish are standardized to the same length. In this case you can come up to different GSI values that will correspond to the percent of mature fish spawning. The closer that you get to that hundred percent, the more risky it is. The lower you get, the more pre-spawning fish you're going to be protecting in the process, too, so that comes back to your management goals.

Micah had laid out a few different options; one that would trigger at 70 percent of mature fish spawning; one that would trigger at 80 percent; and one that would trigger at 90 percent. Using those different triggers results in different potential dates for defaults. Looking at all those data, we took the median values of the forecast based on each year's worth of data.

The lower that GSI – so, for example, the 70 percent of mature fish that is in red on the bottom; and you can see that the lower the number, so that corresponded to a GSI of 23, the earlier the closure would be because you're encompassing more pre-spawning fish. So that makes sense, earlier closure more pre-spawning fish.

As you're getting closer to the spawning event, those are going to get later; so you see the 90 percent value would be a median of October 17<sup>th</sup> would be the start of a default closure. This is for Western Maine and Massachusetts/New Hampshire. This is not for

Eastern Maine. The length of the closure – as Micah said, we took a look at the literature, and the biology in our area seems to indicate that our fish are spawning for approximately 40 days.

Worldwide that is actually a very low number, but the data seems correct. For our area that 40 is about correct. Through all of these things there is a number of different topics where the technical committee is providing recommendations. Now, these can all be treated separately. I know this document is being developed; so other options are going to be included in the document; but please remember that each of these can be treated separately.

It can create a range of different options overall. Just because you choose to go with a forecasted process, it doesn't mean you have to choose to go with a specific default date or a specific length of spawning closure. The process, as I described before, is a GSI-based forecasting process. We looked at many years of data. I'll go into some benefits of this process.

We believe that this is the most effective way to make sure that we are encompassing the spawning events that happen; and we recommend these are the proposed forecasting protocol that was presented by Micah for spawning closures.

Where you want to draw that line, whether it is on a lower risk side of things so on a lower number GSI trigger or a higher risk side of things, a higher GSI trigger later in the year, a spawning closure that would be a little bit later is completely up to the section. We have no recommendation there. It completely depends on risk tolerance and management goals.

As far as area, we've also been tasked in the past to take a look at area. We took a look at the data for the different areas, in particular Western Maine and Massachusetts and New Hampshire, and found there is no significant

difference in the timing of spawning. We do recommend combining those spawning closure areas as a result.

One point of confusion here is that often people are seeing different size fish in the terminal ends of those two different areas, which can lead to a lot of confusion and make this a little bit confusing that people would be seeing fish of a certain size spawning in one area and fish of a different size in another area; but as far as the data are concerned there is no significant difference in those areas.

Eastern Maine; there is minimal literature and very minimal data. It is very challenging to get data there; so the technical committee recommends a status quo on area and default start date for a spawning closure. For Western Maine and Massachusetts/New Hampshire, the methodology that the technical committee has developed and is proposing should actually negate almost the reliance on default dates, especially from lack of samples.

There should be plenty of sampling particularly if those areas are combined. That will increase the availability for sampling. This methodology forecasts different dates based on each year's data; so real-time data of what is happening that year and not reliance on a default to encompass all that variability.

The technical committee recommends the median values based on the section's choice of GSI risk tolerance; so those are those triggers I was talking about, whether it be at 70 percent, 80 percent or 90 percent. The length of closure, as I went over, the literature and sampling supports a 40-day closure; so the technical committee does recommend a six-week closure based on the biology of the fish and the literature.

Potential benefits from this new forecasting methodology and some of the other options; sampling, right now in order to close for spawning, there have to be two samples within

seven days of each other. The forecasting method does away with that. There has to be sampling, but the sampling leads up throughout the course of the season to the spawning closure.

There is no requirement for two samples in very close proximity, which has been a big problem for a lot of the spawning closures in the past and has led to heavy reliance on a default date. Because use of a transparent closure method, it is the same method for that entire area. It allows for advanced public notice.

One of the beauties of the forecast thing is that you can choose a date ahead of time and that can be the date where you announce. As you get closer to the spawning closure, as we're tracking the GSI over time, you're able to predict that date at which spawning will happen; so you have flexibility in determining how far ahead of that you want to be able to put in your rules of whatever it is that needs to happen in order to close.

You could, seven days ahead, say, okay, in seven days we're going to close this based on our forecasting. It creates a really nice avenue for advanced public notice. Like I said before, it is less reliance on the default dates. There is a bit of variability between each of the years; and this allows for it to be accounted for within season.

Each year's data are taken into consideration and each year may be very different; so it is a more real-time perspective. Like I just said, accounting for documented inter-annual variability; so the changes in those spawning events year to year, it may be very early one year and it may be very late another year. That's all taken into account in this new methodology.

These are some other things that came up over review of the prior management actions. Public comment suggested spawning closures should be based on real-time data. Fishermen



specifically noted spawning closures occurred too early in some instances and were therefore not as effective. Those were from the public comments in some of the previous management actions.

Something to keep in mind as you're discussing this is that forecasted spawning closures may be earlier than our current defaults. They may also be later. They're specifically based on the biology of those fish, what those fish are doing in any given year; so that is not going to be as firm as it is right now where typically we close on a default date and the closure happens for approximately the same period of time, at the same time every year.

The spawning closure is going to move around under our forecasted method. That has potential implications for gear conflicts or a potential perceived or unperceived gear-specific access to various spawning areas. That is all I have. If anyone has any questions, I would be happy to take them.

CHAIRMAN STOCKWELL: Thank you, Renee, for repackaging Micah's presentation and for incorporating much of the comments that I made in the white paper that is all part of the briefing documents. Just to refresh everyone's memory, we did have a conference call on June 15<sup>th</sup> where we withdrew the draft amendment from public consideration.

I committed to providing a white paper which laid out the concerns that I had at the time; and here we are today. Before we go into providing further guidance to the PDT; are there any questions to Renee on her presentation? Doug.

MR. DOUGLAS E. GROUT: Renee, you present a very good report here and it does make things much clearer for me. There was one aspect of it that I wasn't quite clear on is sort of the connection or lack of a connection between increase or decrease in the board's risk tolerance here and there not being any change in the length of time of a spawning closure.

Maybe I'm not understanding this; that if we're looking at something that is more risk averse, we're starting a closure at a lower GSI level; but wouldn't that indicate that if we were encompass a full four weeks, aren't you sort of – if you're starting the closure earlier because you are at a lower GSI level, wouldn't it suggest that you might have a longer closure as opposed to a more risky higher GSI, which you'd probably have the spawning completed after four weeks?

MS. ZOBEL: That is something I took a look at, too, because that was language coming from the original technical committee paper in Micah's presentation; but I looked at it in a very similar way. You're losing risk on one end and gaining a little bit of risk on the other. So if we're saying, yes, there is a 40-day closure; if you want to get as close to when 100 percent of those fish are spawning, then that puts you at more risk of – under the lower number you have more pre-spawning fish that will be protected. Under the higher numbers, you're getting at that spawning event.

Certainly, yes, you lose protection on one end. For the other, if we're saying there is a 40-day spawning event, hypothetically getting as close as possible to that spawning event, it is just whether there is a risk of spawning fish at the dock at that point is the question. You may see spawning fish at the dock at that point, but you're going to close it as close as possible as the primary spawning of that group through 40 days. I guess it is almost a cost benefit one way or the other. That's a great clarification; thank you.

DR. DAVID PIERCE: Renee, you've given us, I think, five or so recommendations from the technical committee. What I'm trying to do is determine if the first recommendation from the technical committee encompasses all the rest. This is why I asked for clarification. You said the technical committee is recommending that we approve/adopt their proposed forecasting

protocol for spawning closures. Here is where I got a little bit lost because then you went into some more detail and some more recommendations; so I lost track of what exactly is the protocol. Could you describe that again?

MS. ZOBEL: The protocol for the forecasted spawning closure will be based on sampling. The GSI samples and the fish are basically standardized up to a 30-centimeter fish because we know biologically that the larger the fish the earlier they spawn. We're being conservative on that size. We're just getting it all standardized to that value. Then the GSI; you can track the GSI over time and develop a linear pattern and sets itself up beautifully in that linear manner so that you are then able to project out to the date when those fish will be at spawning. Does that make more sense? Okay.

MR. JEFF KAELIN: Renee, I'm trying to understand the justification for the expansion of the closures from four to six weeks. I went back and looked at Micah's comments in the May meeting and the statement was that we don't have GSI samples to tell us the duration of spawning and that the literature indicates that it could be up to 40 days.

My question is, is part of that time the protection of the egg beds when the eggs are on the bottom before they're released into the water column? That's my question because to date the egg beds have never been protected. That has never been a consideration in these closures. In fact if you were going to prevent damage to egg beds, you probably would eliminate bottom fishing and not herring fishing. My question is, is the justification for the PDT's recommendation to go from four to six weeks in part to protect herring egg beds?

MS. ZOBEL: It is not; and it looks like that was the confusing part of the last presentation as well. Micah used literature – and our literature starts for spawning events there is mention of

eggs a number of times. Basically they're looking at the length of eggs being dropped. It has nothing to do with protection of egg beds. It strictly has to do with length of spawning events.

MR. KAELIN: When you were talking the tolerance and the justification for losing the tolerance back about 15 years ago, whenever it was, I thought that you said something about there was some concern about localized depletion and that the industry had to import fish or something like that; what was that comment about?

MS. ZOBEL: In Amendment 1, which was in 1999, there was a 13-week closure. All areas were closed for 13 weeks and the quota was not caught and fish had to be taken in from Canada. That's what I was referring to there. It didn't have anything to do with the tolerance. It was just the closure.

MR. KAELIN: It was the duration of the closure; okay, thank you.

MR. G. RITCHIE WHITE: To follow up on Jeff's idea he brought up; if we did want to protect the beds after spawning occurred, that would require more than a six-week closure, then?

MS. ZOBEL: We strictly looked at the length of the spawning event. We did not look at protection of eggs.

CHAIRMAN STOCKWELL: Are there any further questions for Renee? Seeing none; given Renee's presentation and the white paper that I generated, Section Members, what guidance to the PDT might you have to further develop the amendment, including the goals and whether or not the range of alternatives is broad enough. What are folks' thoughts? David.

DR. PIERCE: If you'd provide a bit more explanation or assistance, Mr. Chairman, I'm referencing now the memo that you sent to us dated July 22<sup>nd</sup> with discussion points for this

meeting. At the back of that memo there is an outline providing a great deal of information. My question to you is, is this what you or is this what the staff has provided as a laundry list or a template of options that potentially we could adopt? I think you should put it in a proper context.

CHAIRMAN STOCKWELL: This is strictly my laundry list that I put together with the help of Matt Cieri to stimulate my thought process and hopefully all of yours to determine whether or not this amendment should move forward first; and second whether or not there should be any further development of it. David.

DR. PIERCE: Well, if our intent today is to review what has been given to us from the technical committee as recommendations for us change the way we do business regarding how we protect the spawning fish, then I guess you're looking for a series of motions that would respond to the technical committee recommendations? If you are, I can make some and see how they work out.

CHAIRMAN STOCKWELL: I think foremost we need to wrestle with the question that has been posed specific to the eastern area and the recommendation from the technical committee to maintain status quo on the area and the default start date and the fact that the memo states that last year we closed the eastern area when there is no spawning fish being landed. Is it the section's intent to be protecting spawning fish or is it the section's intent to be protecting areas where fish might spawn? I think that is, in talking with Renee and the technical committee members, the guidance that they need to fine tune the development of this amendment. David.

DR. PIERCE: Well, that is the first motion that we should consider and that is that – well, I'll make a motion that for the Eastern Maine Area we adopt the technical committee's recommendation for status quo and the default start date.

CHAIRMAN STOCKWELL: Well, we're not making final decisions, David. This is just to go in the public – this will be repackaged to go out for public comment. Toni, is going to provide some more counsel.

MS. TONI KERNS: Just as a reminder to the section; at the last meeting in May the section had approved a document to go out for public comment that included a series of options that looked at spawning protections combining some of the areas. Those spawning protections also had default closure dates that changed from the status quo to be for four weeks that extended out to six weeks.

A couple weeks after the section meeting in May, the board got together via conference call and voted to pull that document from public hearing because it didn't meet the goals and objectives as set by the section. I think what the PDT needs direction from the section is what are those goals and objectives that the document did not meet.

That's what Terry is asking here; do we want to protect spawning fish or protect pre-spawning fish? If we walk through I think Terry's memo, maybe we can get at some of that direction so that PDT can go back and bring forward a document at the annual meeting for you to consider for public comment. If that is the direction that the section is going, the section can also say you don't want to move forward with Draft Amendment 3 at all anymore and the document will be off the table and we'll move on with section business.

CHAIRMAN STOCKWELL: David, I think if your intent is to make a motion; it would be probably clearer for the section and the PDT if your motion was specific to the goal – is it the goal to protect spawning fish by prohibiting landings or is to prevent fishing operations that might disrupt spawning activities; two very different things.

DR. PIERCE: Yes, I'll withdraw the motion I made, first of all, and there was no seconder so it is not a motion. Okay, if I'm hesitating it is because I have few documents in front of me; and, frankly, I'm working primarily off of your discussion points. It is kind of hard to walk through this.

Could you point us to that which you've just stated, the two options regarding what the objectives might be? The PowerPoint was given and it had it, and it was very useful. We don't have that presentation or a document that would reflect that.

CHAIRMAN STOCKWELL: We're going to put that back up on the board, David. For those who have the July 22<sup>nd</sup> memorandum, it is at the bottom of the first page under the bold of questions concerning the draft amendment.

DR. PIERCE: In that case I would make a motion that the goal is to protect spawning fish by prohibiting landing of all Atlantic herring.

CHAIRMAN STOCKWELL: Prohibiting all Atlantic herring within the specific spawning area?

DR. PIERCE: Yes, within the specific spawning areas. In other words, I'm not making a motion that would have us set as a goal preventing fishing operations that might disrupt spawning activities in a large geographic area. That is too all-encompassing. It is not about disrupting spawning activities. It is about catching spawning fish, which has always been our concern over all these years; are they spawning or are they not? I'm going with the first option in the list of two, which is to protect the spawning fish by prohibiting their landing in the defined spawning areas.

CHAIRMAN STOCKWELL: David, while is still a working motion, Toni has just recommended that you move that the PDT develop options that will protect spawning fish; is that correct, Toni?

MS. KERNS: Yes.

DR. PIERCE: I'm receptive to any improvement that would make the plan development team's work easier; so certainly I would accept that.

CHAIRMAN STOCKWELL: David, to the motion on the board; is that good with you?

DR. PIERCE: Let's modify that; "within the specific spawning areas defined as Eastern Maine and Western Maine/Massachusetts/New Hampshire. Otherwise, it suggests we're going to be looking at specific spawning beds and we're not in the position to do that.

CHAIRMAN STOCKWELL: Is there a second?

MR. GROUT: I'll second it and also offer a friendly perfection to it of herring caught within the specific spawning areas – excuse me, where did the landings go – okay.

CHAIRMAN STOCKWELL: So you want inserted between "herring caught" –

MR. GROUT: Well, originally I was talking about reflecting what we have right now is develop options to protect spawning fish by prohibiting landing of Atlantic herring caught within the specific spawning areas defined.

CHAIRMAN STOCKWELL: Are you friendly with that, David?

DR. PIERCE: Yes, I am; and there is a mistake in the motion on the board. It should be Western Maine at the third line from the bottom.

CHAIRMAN STOCKWELL: Okay, the motion was seconded by Doug Grout. Discussion on the motion. Steve.

MR. STEPHEN R. TRAIN: Mr. Chair, I don't want to overthink this; and I know it is developing options; but when prohibit fishing from a spawning area, should we have dates on that or more specific? We've got a lot of spawning

areas identified. Are they going to be closed, period?

CHAIRMAN STOCKWELL: My sense, Steve, is one step at a time. We've got the three existing spawning areas, and this motion would respond to the question that Renee highlighted in the technical committee document and the one identified in the white paper. Is there further discussion on the motion on the board? Toni has got a question before we vote.

MS. KERNS: Just for clarification for the PDT; the document before had talked about combining some of the areas or leaving them status quo. Do we still want to have those options or is it just specifically what you have outlined here and no more consideration of changing the areas?

DR. PIERCE: No more consideration of changing the areas. This is responsive to the technical committee's recommendation that we should not treat Western Maine separate from New Hampshire and Maine; that all the data indicate it is the same for practical purposes. This is very specific and there is no other option for a different breakdown, geographic breakdown.

CHAIRMAN STOCKWELL: This just specifies the goal is to protect spawning fish within the areas identified by the technical committee. Is there further discussion? Move that the PDT develop options to protect spawning fish by prohibiting landing of Atlantic herring caught within the specific spawning areas defined as Eastern Maine and Western Maine/Massachusetts/New Hampshire. Motion made by Dr. Pierce and seconded by Mr. Grout.

Those who support the motion on the board, please indicate so; is there any opposition; are there any nulls or abstentions? The motion carries seven, zero, zero, zero. Okay, further guidance for the PDT. Mark.

MR. MARK GIBSON: Are you past the GSI spawning protection matter?

CHAIRMAN STOCKWELL: No; have at it.

MR. GIBSON: Okay, there are other elements of the action; namely, the empty hold provision. Since the council action, which I gather has been submitted for consideration to the agency, there have been some issues and concerns come up in Rhode Island about impacts of the empty hold provision on herring operations that have no intention or ability to discard herring at sea; mainly freezer trawlers that may have processed and frozen packaged material product left on board or smaller vessels that have no capability, have no fish pump on board and couldn't pump anything off if they wanted to but may choose for business reasons to leave some fish on board, top it off.

It is a matter of trailer trucks. You don't want to hire a half truck; you hire whole trucks; and how your fish match up with that matters. Is it your understanding do we need to offer any guidance on that or can that come out in the public hearing process? What is your suggestion on that?

CHAIRMAN STOCKWELL: My suggestion would be that those are the types of comments that would be applicable during the public comment period and that the section can work them after the public comments and come out with accommodations for the wet-pack boats as well as the sea-freeze boats.

Before we go on to something else, are there other options that section members would like to see developed further in the document? I'm specifically referring to if you look at the memo that was generated; should the PDT develop a fast-track closure mechanism for either of the areas as we move ahead with the consideration of a combined Massachusetts/New Hampshire area? Is six weeks the right number; should we do four weeks; different alternatives to take out for public comment or is the section satisfied with the range of alternatives that the PDT has compiled to date? David.

DR. PIERCE: Mr. Chairman, I can't recall all of the alternatives that the plan development team has put together to date. I apologize; I thought we were going to be focusing primarily on the technical committee recommendations as to how to improve the process for protecting the spawning fish, again as a component or an element of the amendment.

Again, I'm looking to you for further guidance as to how we should proceed. Certainly, we need to address the technical committee's recommendation regarding Eastern Maine, status quo, the default start dates. We have to address, I assume, the proposal for the forecasting protocol for the spawning closures; the GSI that we're going to pick, is it going to be 25 percent or 30 percent or 20 percent? Is it going to be the 30-centimeter fish; 80 percent fish spawning as opposed to 75 percent, as opposed to 90 percent? Again, I'm looking to you for guidance as to how we're going to deal with those issues in the context of what is on the agenda.

CHAIRMAN STOCKWELL: All right, let me try to tease a motion out of you. The section has just approved a motion that the goal is to protect spawning fish. We have the Eastern Gulf of Maine; and there are samples coming in with no spawning fish in; so we have a default date that is in place that has not been met.

Should spawning fish come be landed; should we consider a fast-track mechanism to close an area if it is currently open and spawning fish are encountered on the dockside monitoring program? One the issues that the section has discovered over the last couple of years and has gone back and forth between Doug and myself is the lack – at least from my perspective, a lack of a definitive definition upon whether or not the area closes if there is no spawning fish or does it stay open? Last year the area was closed with no spawning fish coming in; so it is something that I hope this section can wrap their head around. Steve.

MR. TRAIN: The last motion, if we could get it back up, I thought was that broad enough that it would allow the PDT to develop alternatives whether they were fast-tracked or not. Did I misunderstand that? It seems pretty broad in what they can do to protect spawning fish.

MS. KERNS: Renee presented levels of risk that the section could consider; and for the length of the closure, we depend on the level risk that you're willing to look at. Do we want to look at all ranges of risk? Before we just had a six-week option and a four-week option; so do we want to increase that range of the options? I think Renee presented a couple of questions out there that would be helpful to get a little guidance so that we don't have to keep going back and forth between the PDT and section on developing the document.

REPRESENTATIVE WALTER A. KUMIEGA III: It seems to me that the least risky option would be a six-week closure with the lower GSI number and the most risky would be a four-week closure with a higher GSI number. If we put those two options in and then we can consider anything in between, that gives us probably a good range.

I would also like to see – I mean, where you've talked about the default dates; is there enough data to make the default dates either make more sense or just make them later in the year so that there is more likely to be spawning going on? It seems like the way the default date is in Eastern Maine and the data that was up there; the default is well before the spawning usually takes place. I don't know how to put that into a motion or if you needed it in a motion.

CHAIRMAN STOCKWELL: As Renee laid out in her presentation, the data in Eastern Maine is extremely limited. I guess my question to you, Renee, is referencing back to Steve's comment; do you feel the previous motion gives you and the PDT and Ashton enough leeway to develop

alternatives that would include the concept of a fast-track closure or do you need specific guidance?

MS. ZOBEL: I think that is broad enough to develop that in the document.

MR. ERIC REID: We're talking about protecting spawning fish. We're talking about default dates that go into effect but don't really do anything is what you're indicating for Eastern Maine. Now we're talking about a fast-track to close an area should there be evidence of spawning. This in its nature said, okay, we're going spawning fish.

However, does it also guarantee access to any of those areas should spawning fish not be present – how does that work, which is what I think you're trying to get at? If there is no spawning fish in Eastern Maine or Western Massachusetts or anywhere; is that going to guarantee access in the fishery to those areas?

CHAIRMAN STOCKWELL: Well, at present the technical committee and the PDT are proposing two different alternatives. One is to treat the Eastern Gulf of Maine separately and combine the two western areas into one area that would be – should this amendment move forward would be closed by projections rather than by the current cutting that we do in between the three states right now. I mean there is an opportunity to provide guidance for any range of alternatives within reason that they can actually analyze. If you've got a proposal, please put it out. Doug.

MR. GROUT: Mr. Chairman, as I understand it, the way the document is written right now, we have a proposal to go with the new projection method in the Western Gulf of Maine/Massachusetts/New Hampshire spawning area closures. Clearly, within that range there might be a range of alternative risk policies in there.

Right now we have a recommendation from the technical committee that there be a 40-day closure or six-week closure. I think that is what is currently in the document, which leaves the Eastern Maine at status quo, which we already have a process defined in Addendum V on Page 10 that talks about getting at least two samples of a hundred fish of either females greater than 28 centimeters that have reached a mean GSI of 20 percent or female herring greater than 23 centimeters and less than 28 that have a GSI of 15 percent.

Then it goes on to say if sufficient sample information is not available for a reliable estimating of the GSI in either of the size categories, the restrictions will go into effect automatically on the default date, which in Eastern Maine is August 15<sup>th</sup>. Sufficient sample information shall mean at least two samples of a hundred fish or more in either length categories taken from commercial catches during a period not to exceed seven days apart.

I think it is pretty clear what would trigger both a non-default date closure and then what would trigger the default closure. Now, the point here is right now that's the status quo. That's what used to apply to all regions, but we're proposing potentially changing that for the other two regions. I guess it is up to the board. I'm comfortable with the way this is written right now. I think it is very clear what has to happen. If there is desire on the part of the section to have an option that would change that, I think we'd need a motion to include that as an option.

CHAIRMAN STOCKWELL: The gray area to me, though, is we've gone back and forth the last couple years, is with the samples coming out of there – I mean what I'm hearing from you is that interpretation of our existing regulations that as long as the samples are indicating there is no spawning occurring; that the area does not have to be closed. That's not crystal clear to myself or the state of Maine.

MR. GROUT: Does the state of Maine have a proposal for a clarification of this; wording that would change this as a clarification, as a proposed option for this addendum?

CHAIRMAN STOCKWELL: Well, it was just made clear by Dr. Pierce in this motion that you seconded that the goal is protect spawning fish. I think I'm pretty close to turning the Chair to somebody else; but before I do that, I'm going to go to Dr. Pierce.

DR. PIERCE: Terry, I want to get back to the memo that you provided us the ideas and kind of a summary of where we are right now relative to a lot of options pertaining to areas and timing and a few other things. I don't want that to be missed because you did work into that memo technical committee recommendations that should be included – I suspect should be included in the list options we bring out to a public hearing on this amendment.

With that said, what I would like to do is make a motion; and the motion would be – because you teased me, and I think I have been teased the right way here because what you've got here makes sense. I would move that we adopt the timing options regarding spawning stage, defaults, and end of spawning closure. These issues are described at the bottom of Page 3 and the top of Page 4 in your memo to us.

I won't get into all the details; they're all described. I just recommend the section reference those areas. It pertains to the GSI options of 20 to 30. It pertains to the degree of precaution, which is a GSI of 23, 25 or 28 relative to how many fish are spawning; 70 percent, 80 percent and 90 percent. It pertains to the defaults meaning status quo or the point that you've raised earlier about the fast-track closure mechanism.

It incorporates the reference to the median date recommendation that was offered up by the technical committee. It also gets to the end of

the spawning closure issues, which are status quo; the recommendation of six weeks and then another option of four weeks; no provision to re-close. I think it covers all the bases and incorporates in a very important way the technical committee's recommendation. I'll read the motion again on the screen: Move to adopt the timing options regarding spawning stage, defaults, and end of spawning closure. Okay, these issues are described in the memo to the board. That's the motion.

CHAIRMAN STOCKWELL: Sufficiently teased; thank you, David. I do have one recommendation, though, is that rather than adopt it should be to include in the document.

DR. PIERCE: I'm sorry, I couldn't hear.

CHAIRMAN STOCKWELL: You should move to include in the document these options so they can go out for public comment.

DR. PIERCE: Yes; that's a better way to phrase it.

CHAIRMAN STOCKWELL: Seconded by Walter. Is there discussion from the section? Eric.

MR. REID: So does this mean that closures will be done by one or the other of a spawning stage or default or is it designed to use one of those two mechanisms in an effort to ensure access to fish that are not spawning?

CHAIRMAN STOCKWELL: This is a range of alternatives.

MR. REID: Okay, so it would be a range of alternatives. One would be to eliminate default dates and the other one would be to use a spawning stage as a mechanism for closures?

CHAIRMAN STOCKWELL: It is a suite of alternatives to go out to the public to comment on.



REPRESENTATIVE KUMIEGA: To Dr. Pierce would it be considered a friendly perfection to also include a fast-closure process?

CHAIRMAN STOCKWELL: That's in there. You can refer to Page 3 of my memo and it is included in Issue F. Is there further discussion of the motion on the board? I'll read it: Move to include in Draft Amendment 3 the timing options regarding spawning stage, defaults, and end of spawning closure. These issues are described in memo to the Board dated July 22, 2015. The motion was made by Dr. Pierce and seconded by Representative Kumiega. You have a question, Doug?

MR. GROUT: Could you refer to Page 3 again and where it references the fast-track, quote-unquote, spawning? Is it under Issue 2?

CHAIRMAN STOCKWELL: Issue 3, timing, Section F, Number 4.

MR. GROUT: But there isn't a specific definition of what fast-track would involve. That is something that is going to come up from the PDT. Do they need guidance on what that means?

MS. ZOBEL: I think guidance would be helpful on specifically what you would like to see as far as fast-track is concerned.

CHAIRMAN STOCKWELL: Do you have a recommendation, Doug?

MR. GROUT: It may be a different recommendation than I think what you had intended. Based on our conversations, I'm comfortable with the seven days. I think that is a fast process to be able to particularly get information out to the industry in preparation for this, especially if it is in an area that may or may not be under the projection method. Clearly, the projection method gives the industry sufficient time; but a closure immediately, particularly if it might apply to the

area that my state is involved, may be problematic. I know we could shorten it up a little bit.

CHAIRMAN STOCKWELL: So are folks comfortable with up to seven days? I'm seeing no opposition. Are you okay, Doug? Okay, is there any further discussion of the motion on the board? Seeing none; those that support it please indicate so; those who don't; those who are abstaining or nulling. Okay, the motion carries seven to zero. Is there further guidance to the PDT or, Renee, do you seek further guidance from the section for the work that you need to do between now and our fall meeting?

MS. ZOBEL: I think your memo plus the motions have laid out guidance as far as document development between now and then.

DR. PIERCE: I didn't hear what Renee said regarding – I guess I need to find out if we've covered the base that we've already highlighted and then Renee highlighted about the technical committee proposed forecasting protocol for the spawning closures that is using the 30-centimeters fish? Is that in the mix already or does that have to be considered as a separate action?

MS. ZOBEL: That was within the options that were presented earlier; and I believe that's already within the options that will be presented in the document.

DR. PIERCE: Okay, good, I just wanted to make sure because that's an important thing. It is included; good.

CHAIRMAN STOCKWELL: Yes; my sense is that it is embodied in the current document. Bill.

MR. WILLIAM A. ADLER: In other words, the issue of spawning as adjusted today will be put into the document. The other two issues in the amendment will go to public hearing as are in the document now. There is still the three and

basically what we've been doing here is fixing number one; is that correct?

CHAIRMAN STOCKWELL: That is correct. Jeff.

MR. KAELIN: So the PDT or the technical committee is going to go back and revise the document and then it will come back in Florida in November and then there would be an opportunity for the AP to check in after that document is finalized and during the public hearing process. That is my question in terms of timing; but I have two issues I want to raise that have been raised with me by many people over the last few weeks that I want to mention before we end here today. Thanks.

MS. KERNS: The AP will be involved as we develop the options; so we'll have either a conference call or an in-person meeting depending on what we make work between now and the annual meeting; and then we'll also have an AP meeting while the document is out for public comment. We will strive to have that meeting after the public hearings have occurred so that you can least have a notion of what happened in those meeting to the best we can with scheduling.

MR. KAELIN: That sounds good; but there are two reoccurring issues that I'm hearing from folks. In fact, I'm getting text today. The first is on the biological issues. There doesn't seem to be any relationship to the biomass strength and this potential extension of spawning closures for another two weeks. I think even with the operational assessment and the adjustment to eliminate the retrospective in the model run, the biomass is still over 200 percent of the target.

The second issue is that there is no quantitative analysis of impact by fleet or gear to a two-week extension of the spawning closures in the area. Those are the two things that people keep coming to me with; and I wanted to mention them today with the section here in

case the technical committee could address one or both of those outstanding issues. Thank you.

DR. PIERCE: To the first issue that Jeff raised; that is a very important issue. We have some new information regarding stock status. I think we've all heard it already. It caught me by surprise. I didn't think the resource was as robust or as large as it is assessed to be now. Great information, very positive information.

The resource itself is in excellent shape according to the most recent assessment. People may challenge that, but it is what we have. That information certainly will be incorporated into the amendment; and I suspect it is going to have an influence on section members and certainly those at the public hearing regarding whether or not we need to have the longer spawner period or shorter spawning period.

It would seem that if the resource was in poorer shape that a larger period would be favorable. Since the resource is in great shape, I suppose there will be a lot of debate and arguments that we don't need the longer period. I'm glad that Jeff raised it. It needs to be incorporated into the document. It will help the public understand where we are, help the public address the issue and then later on how we finally decide what to do.

MR. EMERSON C. HASBROUCK, JR.: Mr. Chairman, relative to that discussion, in terms of not only helping the public understand, I'm having a little trouble understanding here. If the goal is to protect spawning fish and yet the spawning stock biomass – and what I've just heard is that 200 percent of the target – all right, whether we remove a fish a day before it spawns or a week before it spawns or six months before it spawns, it has still been removed from the spawning stock biomass and that fish isn't going to spawn.

I'm not sure what these closures are doing; and maybe I'm a little late to the ballgame here. I

know that I am because this plan has been in effect for a long time; but how are we protecting spawning fish with a closure? Aren't we just allowing those fish to spawn unmolested?

MS. ZOBEL: That's exactly what we're asking for clarification on; what the management goal was.

CHAIRMAN STOCKWELL: Before we move on to Toni's report, is there any further discussion? The only further input I have is a request that some economic analysis be incorporated so that as we move forward with taking to the public a document that proposes a six-week closure during prime lobster fishing season; that the public has an ability to fairly comment. Okay, Toni.

#### **UPDATE ON NEFMC ACTIVITIES**

MS. KERNS: I'm going to go through this rather quickly so that we can get our lunch and then get started with the Lobster Board. The Herring Committee from the New England Fishery Management Council met at the end of July to make recommendations that are to go through in order to make recommendations to the full council for their upcoming meeting on herring specifications. For the majority of the specifications, they went ahead and recommended status quo for the uncertainty or for the uncertainty buffer for the ACLs, the management areas sub-ACLs as well as the fixed-gear set-asides and the research set-aside. The one thing that they did that was somewhat different from last year is how they looked at the gear and area catch caps for river herring and shad. They are making a recommendation to the full council that we use a seven-year weighted average mean; so from 2008 to 2014 – and this is an unscaled average – to specify the river herring and shad catch caps for the 2016 to 2018 fishing years.

In terms of how we utilize this information to go through this process; typically the commission

will set the specifications for the upcoming fishing year at our annual meeting, and this will be after the Herring Committee has made its recommendations to the full council and the full council then votes to make those recommendations to NOAA Fisheries.

We try to make those recommendations based on what the full council does. Are there any other clarifying points that members of the New England Council want to make since I wasn't at that meeting that you wanted to point out?

MR. GROUT: Mostly some clarifications that the actual ACLs aren't exactly the same. It is the sub-ACLs because the ABC was reduced by a slight amount – I think about 3,000 metric tons; and so the sub-ACLs are actually lower. What it was is the percentage allocation to each sub-ACL is the same. We made a recommendation there would be no change on that.

There is one thing on the management uncertainty buffer that we also forward as a recommendation is that there is a provision to allow a thousand metric tons of the 6,200 metric ton management uncertainty buffer to be returned to the 1A fishery after October 1 if the New Brunswick Weir Catch is less than 4,000 metric tons as of October 1<sup>st</sup>.

The reason we did that is our management uncertainty; we considered three areas of management uncertainty, but the main one which we drew from was we don't know what the New Brunswick Weir Catch is going to be; and we have no control over that. We stuck with the same management uncertain buffer that we used in the last specifications; but added in this provision that if they've used less than 4,000 metric tons, just a small portion, a thousand metric tons would be returned to our allocation.

CHAIRMAN STOCKWELL: Questions for Doug or Toni? Seeing none; is there any further business to come before the Herring Section? Doug.

MR. GROUT: Is it the intent that we will undertake an addendum beginning at our next board meeting to update these specifications for plan, too, or should we initiate that today?

MS. KERNS: Doug, would we need the addendum because of the changes in the provision to allow the thousand metric tons rolled over; is that what you're getting at? We can do the numbers' specifications by section action; but I'd have to look into whether or not we would need an addendum for the rolling over portion for the weir fishery.

MR. GROUT: Yes; maybe what we need to do is have you – let's look into that and see whether we need to do it by addendum but prepared to take some kind of action at the fall meeting.

MS. KERNS: We can definitely do that and we will be prepared to present the full recommendations from the council at their upcoming fall meeting.

CHAIRMAN STOCKWELL: Everyone comfortable with that game plan? Seeing so; this meeting is adjourned.

(Whereupon, the meeting was adjourned at 11:45 o'clock a.m., August 4, 2015.)